

Message Text

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ORIGIN OPIC-12

INFO OCT-01 AF-10 ISO-00 EB-11 L-03 COME-00 OMB-01 TRSE-00

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DRAFTED BY:OPIC/GC:STEVEN FRANKLIN

APPROVED BY:EB/IFD/OIA:MKENNEDY

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OPIC/T:HKATZ (PHONE) AF/W:JBISHOP

SPECIAL CHARGE: OPIC

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TO AMEMBASSY ACCRA PRIORITY

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E.O. 11652: N/A

TAGS: EFIN, ID

SUBJECT: EJURA FARMS

REF: ACCRA 3912

1. REFTEL NOT RECEIVED IN TIME FOR OPIC TO RESPOND EITHER BY TELEGRAM OR PHONE PRIOR TO EJURA FARMS BOARD MEETING. PLEASE ADVISE OUTCOME OF MEETING.

2. ARGUMENT UNDER SECTION 3.01G AND 4.01H STATED REFTEL TO SUPPORT PRESUMED NIB POSITION OVERLOOKS THE COVENANTS OF BORROWER IN ARTICLE V OF THE LOAN AGREEMENT, INCLUDING SECTION 5.01 WHICH PREVENTS BORROWER FROM SUBSTANTIALLY CHANGING, WITHOUT AID'S WRITTEN CONSENT, THE NATURE OF THE PROJECT DESCRIBED IN THE HEAD AGREEMENT. IF CHAN'S ROLE UNDER THE NEW MANAGEMENT ARRANGEMENTS SUBSTANTIALLY DIFFERS FROM THAT CONTEMPLATED IN THE MANAGEMENT AGREEMENT, BY INTERPOLATION IT DIFFERS FROM THE NATURE OF THE BUSINESS SET FORTH IN SECTION 7 OF THE HEAD AGREEMENT, I.E. MANAGEMENT BY CHAN (THE PRINCIPAL SHAREHOLDER AND PRESIDENT OF LIMITED OFFICIAL USE

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EXFIN). THUS THE INSTALLATION OF DIFFERENT MANAGEMENT COULD BE

VIEWS AS AN EVENT OF DEFAULT UNDER SECTION 7.01B OF THE LOAN AGREEMENT UNLESS OPIC CONSENTS THERETO IN WRITING.

3. ALSO NOTE THAT NEITHER OPIC NOR EJURA FARMS HAS SIGNED THE AMENDATORY AGREEMENT RESCHEDULING THE DEBT AND EJURA FARMS STILL IS LEGALLY IN DEFAULT. OPIC CAN DELAY ITS SIGNING OF THIS AGREEMENT, AND IF NECESSARY, REQUIRE RENEGOTIATION OF THE TERMS OF THE LOAN AGREEMENT BEFORE SIGNING TO ASSURE THAT OPIC'S FUTURE VOICE IN BASIC MANAGEMENT ARRANGEMENTS IS CLARIFIED AND UNDERSTOOD.

4. OPIC TREASURER MULLER AND ASSISTANT TREASURER KATZ ARE IN NYC TO DISCUSS MANAGEMENT PLANS WITH BERGAN. WILL ADVISE OUTCOME. FYI. PRESENT FEELING OF OPIC IS NOT TO DISTURB - AT LEAST TEMPORARY - OPERATIONS UNDER NEW MANAGEMENT SCHEME IF BERGAN PROVES ACCEPTABLE. OPIC ENCOURAGED OVER MORE VIGOROUS ROLE PRESENTLY BEING TAKEN BY NIB AND DOES NOT WISH TO UNDERMINE SUCH INTEREST BY TAKING AN OBDURATE POSITION THAT MIGHT BE VIEWED AS PREVENTING CRITICAL MANAGEMENT NEEDS FOR THE APPROACHING SEASON. END FYI.

5. NEITHER OPIC NOR APPARENTLY BERGAN ARE AWARE OF DETAILS OF NEW MANAGEMENT SCHEME. REQUEST MISSION FORWARD TEXT OF NEW MANAGEMENT AGREEMENT OR PROPOSAL VIA PRIORITY TELEGRAM. CHAN AND NIB MAY BE ASSURED REVIEW OF SAME WILL BE AFFORDED PRIORITY TREATMENT. KISSINGER

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